IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE ANTONY DOMINIC

THURSDAY, THE 13TH DECEMBER 2007 / 22ND AGRAHAYANA 1929

WP(C).No. 34684 of 2007(D)

PETITIONER:

NOORUL ISLAM TRUST,
AL-AZHAR CAMPUS, PERUMBALLICHIRA P.O.,
KUMARAMANGALAM, THODUPUZHA, IDUKKI DISTRICT,
REPRESENTED BY IT'S CHAIRMAN, HAJI K.M.MOOSA.

BY ADV. SRI.C.A.MAJEED

RESPONDENTS:
----

1. STATE OF KERALA,
REPRESENTED BY ADDL.SECRETARY, REVENUE (SLMC)
DEPARTMENT, SECRETARIAT, THIRUVANANTHAPURAM.

2. DISTRICT COLLECTOR,
CIVIL STATION, PAINAVU, IDUKKI.

3. TAHSILDAR,
TALUK OFFICE, THODUPUZHA.

4. VILLAGE OFFICER,
VILLAGE OFFICE, KUMARAMANGALAM, THODUPUZHA.

5. KUMARAMANGALAM GRAMA PANCHAYATH,
KUMARAMANGALAM P.O., THODUPUZHA REPRESENTED BY
IT'S SECRETARY.

BY GOVERNMENT PLEADER SRI.C.K.GOVINDAN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 13/12/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ANTONY DOMINIC, J.
==========
W.P.(C) NO. 34684 OF 2007 D
==========

Dated this the 13th day of December, 2007

J U D G M E N T

Ext.P3 order assessing building tax is under challenge. It is contended by the petitioner that on receipt of Ext.P1, petitioner had submitted Ext.P2 request to the 3rd respondent requesting for 40 days time for production of documents. The contention of the petitioner is that without responding to Ext.P2, assessment has been completed and Ext.P3 order has been issued unilaterally.

2. The learned Government pleader on instructions submitted that when Ext.P2 was received by the 3rd respondent, the petitioner was informed that time asked for cannot be granted. It is also stated that thereafter, petitioner had promised to make available the documents by 21/09/07 and that it was on account of the failure of the petitioner in producing the documents as agreed by him, the assessment was completed and Ext.P3 issued on 5/10/2007.

3. From the above, it is obvious that the request made by the petitioner by Ext.P2 has been received by the 3rd respondent. It is his contention that he had informed the petitioner that time

sought for cannot be granted and that the petitioner had offered to produce the documents on 21/9/2007. However the fact remains that there is nothing to prove the correctness of this assertion. In any case, this is not dealt with in any of the communications that has been received by the petitioner. Thus, there is nothing to prove that a reasonable opportunity was extended to the petitioner to adduce proof in support of his contentions resisting Ext.P1. Therefore Ext.P3 has to be held to be one passed in violation of the principles of natural justice and it has to be set aside.

4. Accordingly, Ext.P3 will stand set aside and the 3rd respondent is directed to give sufficient notice to the petitioner to enable him to produce records in proof of his contention and conclude the enquiry and thereafter pass orders of assessment in so far as the building in question is concerned. This the 3rd respondent shall do within eight weeks from the date of receipt of a copy of this judgment.

Writ petition is disposed of as above.

ANTONY DOMINIC, JUDGE.

Rp